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May 8, 2017

VIA Electronic Mail

Mr. Jeff. S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20436

Re: MUR 7229, Floridians for a Strong Middle Class

Dear Mr. Jordan:

I write on behalf of respondents Floridians for a Strong Middle Class and its treasurer, Jennifer May (together "FSMC"), to respond to the Complaint dated February 16, 2017 filed by Alan Grayson (the "Complaint"). FSMC respectfully requests that the Federal Election Commission (the "Commission" or the "FEC") promptly determine that there is no reason to believe FSMC violated the Federal Election Campaign Act ("FECA" or the "Act") as the Complaint alleges, or in any other manner that might be considered from the Complaint's factual allegations and legal contentions.

The Commission should dismiss the Complaint for the same reasons that it should dismiss the complaint in MUR 7138. Both complaints allege illegal coordination between FSMC—a federal super PAC—and Patrick Murphy—a U.S. Senate candidate. In MUR 7229, the Complaint briefly describes the MUR 7138 complaint, and then adds two sentences alleging that FSMC aired its July 2016 TV ads in Orlando and Tampa, Florida. Complaint at 1. The Complaint does not provide any new evidence that FSMC violated FECA.

As noted in FSMC's response to the complaint in MUR 7138, the FEC recently addressed the issue of alleged coordination between a candidate's committee and a Super PAC based on the candidate committee's website postings. In finding no reason to believe in MUR 6821, the Commission noted that a communication is coordinated with a candidate only if it meets a three-part test: (1) payment for the communication by a third party; (2) satisfaction of one of the "content" standards of 11 C.F.R. § 109.21(c); and (3) satisfaction of one of the "conduct" standards of 11 C.F.R. § 109.21(d). *See* MUR 6821 Notification with Factual and Legal Analysis to Senate Majority PAC and Rebecca Lambe in her official capacity as treasurer ("Notification") at 7. The Commission then held that the alleged activities did not satisfy any of the conduct standards. It reasoned that there was no evidence of a request or suggestion, material involvement, or substantial discussion because (1) the complainant failed to identify any

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communication between Shaheen for Senate and Senate Majority PAC, and (2) because the Commission has "expressly stated . . . that a communication resulting from a general request to the public or the use of publicly available information, including information contained on a candidate's campaign website, does not satisfy the conduct standards." See Notification at 9 (citing Coordinated and Independent Expenditures, 68 Fed. Reg. 421,432 (Jan. 3, 2003) (explanation and Justification); Coordinated Communications, 71 Fed. Reg. 33,190, 33,205 (Jun. 8, 2006) (explanation and Justification)) (emphasis added).

The Commission's analysis is directly applicable both in MUR 7138 and MUR 7229. The complainant in MUR 7138 argued that the FSMC advertisement was "clearly related and distributed at the request of the candidate." MUR 7138 complaint at 6. And Mr. Grayson here argues that Murphy "did, in fact, tell [FSMC] where to spend [its] money, and [FSMC] followed those instructions without exception." Complaint at 1. But neither the complainant in MUR 7138 nor the one in MUR 7229 provide evidence to support their assertions of coordination.

Mr. Grayson notes that FSMC's entire July 2016 TV buy was in Orlando and Tampa, Florida, which were cities where the Murphy said voters deserve to know that President Obama had endorsed Murphy over Mr. Grayson. Complaint at 1. Even if true, this provides no evidence of coordination; it simply reflects FSMC's independent decision to target the two key media markets where persuadable Florida voters lived. Indeed, this concentration of persuadable voters was attractive to a broad variety of Presidential and Senate candidates, PACs and others seeking to influence Florida elections. The I-4 Corridor between Orlando and Tampa reportedly ranked as the highest in the country for spending on campaign ads. See Colin Wolf, "Orlando residents are seeing more political ads than anywhere else in the country," OrlandoWeekly.com, Aug. 11, 2016, *available at* <http://www.orlandoweekly.com/Blogs/archives/2016/08/11/orlando-residents-are-seeing-more-political-ads-than-anywhere-else-in-the-country>; Jessica Bryce Young, "Lucky Us, Central Florida is getting the most political ads in the country," OrlandoWeekly.com, Oct. 21, 2016, *available at* <http://www.orlandoweekly.com/Blogs/archives/2016/10/21/lucky-us-central-florida-is-getting-the-most-political-ads-in-the-country>. FSMC advertised in Orlando and Tampa because that's where the persuadable voters were. The importance of these two markets was understood widely across Florida political campaigns; it was not secret information known only to the Murphy campaign and shared covertly with FSMC.

In sum, we respectfully request that, for the preceding reasons, the Commission either treat the Complaint as a filing in support of the complaint in MUR 7138 or dismiss it for the same reasons as FSMC outlined in response to MUR 7138.

Respectfully submitted,



Allen H. Mattison
Counsel for Respondents
Floridians for a Strong Middle Class
and Jennifer May, as Treasurer